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Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, on her mission to India: comments by the State

Note by the Secretariat

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Please recycle

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, on her mission to India: comments by the State*

The para and page wise comments/observations on the SR Report are given below:

Para No.	Comments/observations
Para No. 5 (Page-4)	'India's Gini Coefficient rose to 51 per cent by 2013 from 45 in 1990'. The source mentioned is IMF. However, the World Bank (2015) estimates (which are used in UNDH-HDI Report) indicate India's Gini coefficient declined to 33.6 in 2014 from 35.15 in 2011.
Para No. 9 (Page-4)	The Constitution of India was adopted on 26 November 1949 and came into force on 26 January 1950.
Para No. 20 (Page-7)	*'Since 2014, the Minister of Housing and Urban Poverty Alleviation has launched several flagship schemes including Housing for All, Smart City Mission, Atal Mission for Rejuvenation and Urban Transformation and the Swacch Baharat Mission (Clean India Mission).'* In place of 'Minister of Housing and Urban Poverty Alleviation', it may be read as *'Government of India'*.
Para No. 25 (Page-8)	There is a clear lack of understanding about PMAY scheme. The sentence at lines 4 & 5 of the para indicate 'If they cannot access some of the credit-based subsidies, which even if provided at lower interest rates than the market rate (6.5 per cent as opposed to 10 per cent average at market level), the scheme may at times prove financially inaccessible'. In fact, 6.5% is the interest subsidy which makes the effective interest rate as 3.5% if the average market interest rate is 10%, thereby making it financially affordable and accessible.
Para No. 26 (Page-9)	The mission supports construction of houses up to 30 square meters carpet area. The States and Union Territories however have the flexibility to determine the size of the house and other facilities, in consultation with the Ministry.

* Reproduced as received.

Para Nos. 33 & 34 **(Page-10)**	This assessment is a partial understanding of the Smart City Mission and based largely on 'public opinion' without adequate review of the Mission design or Smart City Plans. It is important to note that the Smart Cities Mission has built-in 'inclusiveness' at various levels within its planning and implementation framework. This assessment of SR is far from reality as the Smart City guidelines provide that, of the total housing provided in Greenfield development, there should be at least 15% in affordable housing category. Contrary to the assumption that the smart cities project would only be taken up in affluent city areas, most cities have chosen areas with substantial slum areas. This shows a strong impact of broad based citizen engagement in the selection process. As a result, affordable housing and provision of high quality services, improvement of living conditions in slums etc. have formed major components of several SCPs. The strategy in most cases has not been to evict but to harmonize their presence in the planned area. The SCM has promoted healthy competition among cities for improvement in service levels and service delivery through innovative ways, which would help them to improve the quality of life in the cities. In fact, the focus of Smart City Mission is to make people partners of policy formulation and partners in execution. One of the critical innovations of Smart City Mission is rigorous engagement and ensuring citizen ownership and pride while developing Smart City Plans. The Challenge process helped city residents not only to define their vision but also to come up with innovative approaches towards implementation. The cities adopted both online and offline techniques and mediums in which more than 2.5 million people participated in the consultation process to develop an integrated area based holistic development plan and conceive an incremental approach to cover the entire city. It is a popular misconception that Smart City Mission is driven by technology. The idea is to move beyond creating infrastructure so as to make operations smart and provide more with less. Contrary to the assumption that smart cities project would only be taken up in affluent city areas, most cities have chosen locations with substantial slum areas. This shows a strong impact of broad based citizen engagement in the selection process. Thus affordable housing and provision of high quality services, improvement of living conditions in slums etc. have formed major components of several SCPs. Cities have also focused on improvement economic opportunities for the urban poor through initiatives for skill development, setting up of incubation centres etc.
Para No. 36 (Page-10 & 11)	The Para indicates that governments are reluctant to provide housing, land and basic services to informal settlers. This is not true. Governments at all levels are taking steps through various programmes, including the National Urban Livelihoods Missions, to provide housing, land tenure and basic services to this population. SR may be requested to revisit her observation.
Para No 40 (Page-11 & 12)	The Indian courts have ruled that eviction cannot be done without alternative accommodation and compensation. With new land acquisition laws in place, appropriate compensation is given along with consent of majority of the people for displacement/eviction. Further, evictions are generally carried out where there is a continous chunk of land required for development purposes which is in outskirts of cities or in rural areas. While more often than not, people living in

	such places are living unauthorisedly, they are not evicted untill majority of them give their consent. The guidelines of the Prime Minister's Awas Yojana – PMAY (Urban), for example, provides that while carrying out 'In-situ' Slum Redevelopment, slum dwellers through their association or other suitable means should be consulted while formulating redevelopment projects, especially for the purpose of designing of slum rehabilitation component. As per the Mission Guidelines, the project developers would also be responsible for providing transit accommodation to the eligible slum dwellers during the construction period. While imperatives of development may at times require shifting of people, the process of development also generates benefits through projects coming up, in terms of employment, etc. The SR's Report should include all these and project a balanced view. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act provides for just and fair compensation, rehabilitation and resettlement to affected persons and families.
Para No. 44 (Page-12)	The observation of the SR that access to legal remedies or recourse to justice for forced eviction appears to be scant in India' reflects a lack of understanding of India's legal processes and is not supported with facts.
Para No. 57 to 59 and Para No. 73(Page-14 to 15 and Page 17 to 18)	The Paras talk about 'Open Defecation' and 'Manual Scavenging'. This may not be part of the mandate of SR on adequate housing. The SR on safe drinking water and sanitation would be in a better position to comment as the SR is scheduled to visit India in 2017.
Para No. 67 (Page-16)	As per Census 2011, the SC/ST comprises of 28.1% (SCs: 19. 50% and STs: 8.6%).
Para No. 72 (Page-17)	The Para mentions about discrimination against Muslims (as well as Dalits) with regard to housing access. The source of the claim has not been indicated.
Para No. 85	The recommendations given by SR such as adoption of national legislations on adequate housing, right to curb housing discrimination, address homelessness, a national moratorium on forced evictions and demolitions of homes, protection of livelihood in the event of eviction and resettlement, etc. are very generic and have to be reviewed/implemented depending upon national policies, ground realities and legal & legislative frameworks as well as practicability of these recommendations in the context of India. For example, the recommendation for 'a national moratorium on forced evictions and demolition of homes' seems impractical and idealistic.